

OPEN MEETING ITEM



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**COMMISSIONERS**  
MARC SPITZER - Chairman  
WILLIAM A. MUNDELL  
JEFF HATCH-MILLER  
MIKE GLEASON  
KRISTIN K. MAYES



ARIZONA CORPORATION COMMISSION

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Executive Secretary

2003 NOV 18 A 9:50

AZ CORP COMMISSION  
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DATE: NOVEMBER 18, 2003

DOCKET NO: RR-03639A-03-0748

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Marc Stern. The recommendation has been filed in the form of an Opinion and Order on:

UNION PACIFIC RAILROAD COMPANY  
(AT-GRADE)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and ten (10) copies of the exceptions with the Commission's Docket Control at the address listed below by 4:00 p.m. on or before:

NOVEMBER 28, 2003

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Working Session and Open Meeting to be held on:

DECEMBER 2, 2003 and DECEMBER 3, 2003

For more information, you may contact Docket Control at (602) 542-3477 or the Hearing Division at (602)542-4250. For information about the Open Meeting, contact the Executive Secretary's Office at (602) 542-3931.

Arizona Corporation Commission

DOCKETED

NOV 18 2003

BRIAN C. MCNEIL  
EXECUTIVE SECRETARY

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This document is available in alternative formats by contacting Yvonne McFarlin, ADA Coordinator, voice phone number 602-542-3931, E-mail [YMcFarlin@cc.state.az.us](mailto:YMcFarlin@cc.state.az.us)

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

3 MARC SPITZER, Chairman  
4 WILLIAM A. MUNDELL  
5 JEFF HATCH-MILLER  
6 MIKE GLEASON  
7 KRISTIN K. MAYES

8 IN THE MATTER OF THE APPLICATION OF  
9 THE ARIZONA DEPARTMENT OF  
10 TRANSPORTATION ON BEHALF OF THE  
11 UNION PACIFIC RAILROAD COMPANY TO  
12 CONSTRUCT A NEW RAILROAD CROSSING  
13 AT REALIGNED RAY ROAD, AAR/DOT NO.  
14 922-180W, IN THE TOWN OF GILBERT,  
15 MARICOPA COUNTY, ARIZONA.

DOCKET NO. RR-03639A-03-0748

DECISION NO. \_\_\_\_\_

OPINION AND ORDER

11 DATE OF HEARING:

November 13, 2003

12 PLACE OF HEARING:

Phoenix, Arizona

13 ADMINISTRATIVE LAW JUDGE:

Marc E. Stern

14 APPEARANCES:

Mr. David Ronald, Staff Attorney, Legal  
Division, on behalf of the Utilities Division of  
the Arizona Corporation Commission.

16 **BY THE COMMISSION:**

17 On October 9, 2003, the Arizona Department of Transportation ("ADOT") filed with the  
18 Arizona Corporation Commission ("Commission") a request for approval to construct a new at-grade  
19 signalized public railroad crossing for the Union Pacific Railroad Company ("Railroad") track at the  
20 realigned Ray Road, in Gilbert, Maricopa County, Arizona, AAR/DOT No. 922-180W  
21 ("Application"). With the approval of the Application herein and with the completion of construction  
22 of the new crossing, the existing crossing at Ray Road, AAR/DOT No. 748-721U and the existing  
23 crossing at Greenfield Road, AAR/DOT No. 748-722B will be closed.

24 On October 24, 2003, by Procedural Order, the Application was set for hearing and ADOT  
25 was ordered to provide notice to any interested parties of the Application and the hearing.

26 On October 30, 2003, ADOT filed certification that notice had been provided pursuant to the  
27 terms of the Procedural Order.

28 On November 13, 2003, a full public hearing was held before a duly authorized

1 Administrative Law Judge of the Commission at its offices in Phoenix, Arizona. At the conclusion of  
2 the hearing, the matter was taken under advisement pending submission of a Recommended Opinion  
3 and Order to the Commission.

4 \* \* \* \* \*

5 Having considered the entire record herein and being fully advised in the premises, the  
6 Commission finds, concludes, and orders that:

7 **FINDINGS OF FACT**

8 1. On October 9, 2003, ADOT submitted to the Commission an Application requesting  
9 approval to construct a new at-grade signalized public railroad crossing with automatic flashing lights  
10 and gates for the Railroad track at realigned Ray Road in Gilbert, Arizona, AAR/DOT No. 922-  
11 180W. With the approval for the construction of the new crossing, after it is completed, the existing  
12 public crossing at Ray Road, AAR/DOT No. 748-721U and the existing public crossing at Greenfield  
13 Road, AAR/DOT No. 748-722B will be closed.

14 2. The new crossing will be constructed in the new alignment of Ray Road and in  
15 conjunction with the grade-separated crossing at the new Santan Freeway and with the grade-  
16 separated crossing at the new alignment of Greenfield Road.

17 3. On October 30, 2003, ADOT filed certification that it had provided notice by certified  
18 U.S. mail of the Application and hearing thereon. There have been no objections filed to the  
19 Application.

20 4. A hearing was held as scheduled on November 13, 2003.

21 5. The Application provides for the Railroad to construct a new signalized at-grade  
22 crossing at the realigned Ray Road crossing of the Railroad's tracks.

23 6. Staff testified that the cost for the installation of the new at-grade crossing as provided  
24 in the Application will be funded by ADOT.

25 7. Staff has recommended that the Application be approved.

26 **CONCLUSIONS OF LAW**

27 1. The Commission has jurisdiction over the Railroad and over the subject matter of the  
28 Application pursuant to Article XV of the Arizona Constitution and A.R.S. §§ 40-336, 40-337 and

1 40-337.01.

2 2. Notice of the Application was provided in accordance with the law.

3 3. Construction of a new signalized crossing with automatic lights and gates at realigned  
4 Ray Road, Gilbert, Arizona, AAR/DOT No. 922-180W, is necessary for the public's convenience  
5 and safety.

6 4. The closings of the existing public crossings at Ray and Greenfield Roads, AAR/DOT  
7 Nos. 748-721U and 748-722B, respectively, are in the public interest.

8 5. The Application should be approved as recommended by Staff.

9 6. After construction of the new Ray Road crossing, the Railroad should maintain the  
10 crossing in accordance with A.A.C. R14-5-104.

11 **ORDER**

12 IT IS THEREFORE ORDERED that the Arizona Department of Transportation's Application  
13 on behalf of the Union Pacific Railroad Company is hereby approved.

14 IT IS FURTHER ORDERED that the Union Pacific Railroad shall complete the construction  
15 of the new crossing at realigned Ray Road, Gilbert, Arizona, AAR/DOT No. 922-180W, as described  
16 in the Application.

17 IT IS FURTHER ORDERED that the Union Pacific Railroad Company shall notify the  
18 Commission, in writing, within ten days of both the commencement and the completion of the  
19 crossing, pursuant to A.A.C. R14-5-104.

20 IT IS FURTHER ORDERED that the Union Pacific Railroad Company is hereby permitted to  
21 close the existing Ray and Greenfield Roads public crossings, AAR/DOT No. 748-721U and  
22 AAR/DOT No. 748-722B, respectively, as described in the Application upon the opening of the new  
23 crossing at realigned Ray Road.

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1 IT IS FURTHER ORDERED that upon completion of the new crossing, the Union Pacific  
2 Railroad Company shall maintain the realigned Ray Road crossing in compliance with A.A.C. R14-  
3 5-104.

4 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

5 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.  
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8	CHAIRMAN	COMMISSIONER	COMMISSIONER
9			
10	COMMISSIONER	COMMISSIONER	

11  
12 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive  
13 Secretary of the Arizona Corporation Commission, have  
14 hereunto set my hand and caused the official seal of the  
Commission to be affixed at the Capitol, in the City of Phoenix,  
this \_\_\_\_ day of \_\_\_\_\_, 2003.

15  
16 BRIAN C. McNEIL  
EXECUTIVE SECRETARY

17  
18 DISSENT \_\_\_\_\_  
19 DISSENT \_\_\_\_\_  
MES:mlj

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